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Congress of the United States
Washington, DC 20510

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May 14, 2025

Mr. Charles Ezell
Acting Director
Office of Personnel Management
1900 E Street NW
Washington, DC 20415

RE: Proposed Rule – Improving Performance, Accountability, and Responsiveness in the Civil Service [OPM-2025-00041]

Dear Acting Director Ezell:

We write in strong opposition to the Office of Personnel Management's (OPM)'s Proposed Rule – Improving Performance, Accountability, and Responsiveness in the Civil Service [OPM-2025-00041]. The proposed rule will allow agencies to reclassify thousands of dedicated federal workers from the competitive service into the excepted service and therefore strip them of their civil service rights and protections. The impacts of this proposed rule will upend decades of reforms which have strengthened the federal workforce. Rescheduling nonpartisan positions undermines the ability of federal agencies to fulfill their vital missions and ignores over 140 years of civil service precedent beginning with the Pendleton Civil Service Reform Act of 1883.[1]

More than 2.2 million federal employees work every day to conduct life-saving research, defend our national security, uphold food and drug standards, monitor air and water quality, ensure flight safety and so much more. Nonpartisan, career civil servants, who make up the vast majority of our federal workforce, take an oath to defend the Constitution regardless of which political party occupies the White House. Furthermore, these individuals have the unique credentials and institutional experience required to ensure continuity and impartiality within the federal government. The American public benefits from a strong federal workforce supported by a nonpartisan civil service to conduct their critical work.

On January 20, 2025, President Trump issued Executive Order 14171 which claimed to immediately rescind regulations protecting civil servants and the merit system, reinstate Schedule F, and simultaneously direct OPM to engage in the rulemaking process to create a

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[1] Pendleton Civil Service Reform Act, January 16, 1883, 22 Stat. 403, ch. 27, https://www.archives.gov/milestone-documents/pendleton-act

regulation supporting the reclassification order. Now known as Schedule Policy/Career, any positions that influence policy are directed to be reclassified into the excepted service.[2] In accordance with EO 14171, OPM issued a proposed rule on Schedule Policy/Career which directs agencies to reclassify any position categorized as "confidential, policy-determining, policymaking or policy-advocating character" into the excepted service.

The Trump Administration has made clear its ambitions to undercut the nonpartisan civil service through the Schedule Policy/Career directive. Reclassifying civil service positions into the excepted service removes virtually all protections and rights currently afforded to civil servants. This includes due process and appeals rights that help ensure civil servants can conduct their duties without fear of politically-motivated removal or retaliatory measures. Removing these protections will make civil servants at-will employees and more susceptible to political pressures. Coupled with the Trump Administration's efforts to relocate and terminate wide swaths of the federal workforce, Schedule Policy/Career reclassifications will negatively affect recruitment and retention efforts for federal workers.

OPM's directive to reschedule agency positions that have any involvement in policy will have devastating impacts not only on career civil servants and their families, but the communities that they serve. OPM estimates that 50,000 positions, which accounts for approximately 2% of the civil service, will ultimately be moved into Schedule Policy/Career.[3] However, OPM's failure to adequately define what factors constitute "confidential, policy-determining, policymaking or policy-advocating character" leaves interpretation largely up to each agency and risks the policy being much more broadly implemented than initially disclosed.

Already, agencies have begun taking the broadest approach to evaluating which positions to reclassify into Schedule Policy/Career. The Social Security Administration (SSA) reportedly has directed staff to prepare for large swaths of the agency to be reclassified. Internal documentation obtained by Government Executive indicates that Acting Administrator Lee Dudek recently instructed across-the-board reclassifications for senior leaders and over a half dozen offices within SSA.[4] These positions encompass researchers and other supporting positions that do not set or impact policy decisions. The maximalist approach outlined by SSA foreshadows the wide-reaching implications of Schedule Political/Career which will negatively alter the federal workforce for decades to come.

As Members of Congress, we understand the vital role of our nonpartisan, highly-skilled civil servants and strongly oppose efforts to dismantle and politicize our country's competitive federal workforce. Civil servants remain steadfast in their commitment to serving the public interest, not political agendas and deserve the full support of their government in that effort. In
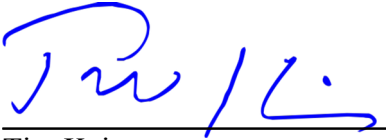
[2] Exec. Order No. 14171, January 20, 2025, https://www.govinfo.gov/content/pkg/DCPD-202500138/pdf/DCPD-202500138.pdf

[3] White House, Fact Sheet: President Donald J. Trump Creates New Federal Employee Category to Enhance Accountability, https://www.whitehouse.gov/fact-sheets/2025/04/fact-sheet-president-donald-j-trump-creates-new-federal-employee-category-to-enhance-accountability/

[4] Wagner, Erich, Dudek Calls for Entire SSA Offices to be Converted to New Schedule F, Government Executive, April 22, 2025. https://www.govexec.com/workforce/2025/04/dudek-calls-entire-ssa-offices-be-converted-new-schedule-f/404755/

that vein, we urge OPM to immediately rescind this proposed rule and collaborate with Congress to effectively manage government operations.

Sincerely,

Tim Kaine
United States Senator

Gerald E. Connolly
Ranking Member
House Committee on
Oversight and Government
Reform

Mark R. Warner
United States Senator

Chris Van Hollen
United States Senator

Angela Alsobrooks
United States Senator

Eleanor Holmes Norton
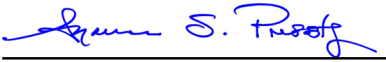Member of Congress
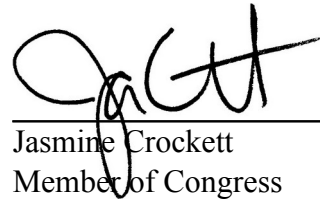
Ro Khanna
Member of Congress

Suhas Subramanyam
Member of Congress

Stephen F. Lynch
Member of Congress
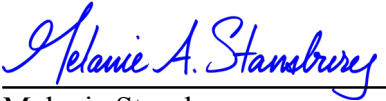
Robert Garcia
Member of Congress
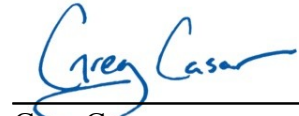
Ayanna Pressley
Member of Congress

Jasmine Crockett
Member of Congress

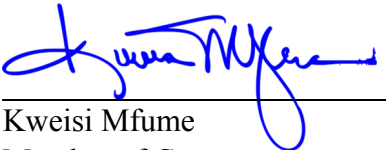Melanie Stansbury
Member of Congress

Greg Casar
Member of Congress

Maxwell Alejandro Frost
Member of Congress

Kirsten Gillibrand
United States Senator

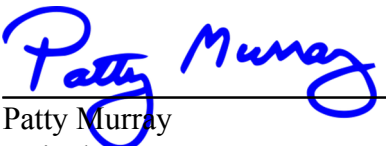Kweisi Mfume
Member of Congress

Alex Padilla
United States Senator

Cory A. Booker
United States Senator

Elizabeth Warren
United States Senator

Patty Murray
United States Senator

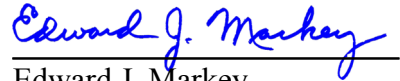Tina Smith
United States Senator

Mazie K. Hirono
United States Senator

Richard Blumenthal
United States Senator

Andy Kim
United States Senator

Edward J. Markey
United States Senator

Bernard Sanders
United States Senator